

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

JOHN REES, )  
                )  
Petitioner,    )  
                )  
vs.             )      **CIVIL ACTION NO. 04-0368-WS-M**  
                )  
TERRANCE MCDONNELL, )  
                )  
Respondent.    )

**ORDER**

The petitioner has filed a “motion to dismiss all proceedings in the instant case at bar.” (Doc. 34). Because the petitioner has already filed a notice of appeal, (Doc. 27), this Court lacks jurisdiction to dismiss the action; any such motion must be filed with the Eleventh Circuit. *See Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)(“The filing of a notice of appeal is an event of jurisdictional significance — it confers jurisdiction on the court of appeals and divests the district court of its control of those aspects of the case involved in the appeal.”). Accordingly, the motion to dismiss is **denied**.

DONE and ORDERED this 7<sup>th</sup> day of October, 2005.

s/ WILLIAM H. STEELE  
UNITED STATES DISTRICT JUDGE